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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 ROBERT J. GARDNER, et al.,

Case No. 2:17-cv-00352-PAL

8 Plaintiffs,

9 v.

ORDER

10 LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, et al.,

(Mot Stay – ECF No. 16)
(Mot WD Atty – ECF No. 17)

11 Defendants.

12 Before the court is counsel for plaintiff Potter Law Offices' Motion to Withdraw as
13 Counsel and Stay Proceedings (ECF Nos. 16, 17). The motion represents that plaintiffs' counsel's
14 present physical condition and health materially impairs his ability to represent his clients. The
15 law firm consists of Mr. Potter and his son, who is unable to take over representation without his
16 father's ability to practice law. Mr. Potter seeks leave to withdraw as counsel of record, and a stay
17 of proceedings while his clients obtain substitute counsel. An Amended Scheduling Order (ECF
18 No. 15) was entered April 18, 2017, giving the parties until November 10, 2017, to complete
19 discovery.

20 Plaintiffs Robert and Kim Gardner have individual claims, and are also co-special
21 administrators of the estate of Garrett Gardner, deceased. Courts routinely adhere "to the general
22 rule prohibiting *pro se* plaintiffs from pursuing claims on behalf of others in a representative
23 capacity." *See, e.g., Simon v. Hartford Life, Inc.*, 546 F.3d 661, 664–65 (9th Cir. 2008) (collecting
24 cases). Additionally, estates may not proceed *pro se* in federal court. *Joubert v. Brown Williamson*
25 *Tobacco Corp.*, 466 F. App'x 588 (9th Cir. 2012) (affirming dismissal of action in which pro se
26 plaintiff alleged claims as the personal representative of his mother's estate) (citing *Simon*, 546
27 F.3d at 664); *Jones v. Corr. Med. Servs.*, 401 F.3d 950, 951–52 (8th Cir. 2005) (non-attorney
28 administrator of decedent's estate may not proceed *pro se* on behalf of estate); *Iannaccone v. Law,*


1 142 F.3d 553, 559 (2nd Cir. 1998) (administrator of estate may not appear *pro se* on behalf of
2 estate); *Pridgen v. Andresen*, 113 F.3d 391, 393 (2nd Cir. 1997) (executrix may not appear *pro se*
3 on behalf of estate).

4 Having reviewed and considered the matter, and for good cause shown,

5 **IT IS ORDERED:**

- 6 1. The Motion to Withdraw (ECF No. 17) is **GRANTED**.
- 7 2. Plaintiffs shall have until **September 25, 2017**, in which to retain substitute counsel
8 who shall make an appearance in accordance with the requirements of the Local Rules
9 of Practice
- 10 3. Plaintiffs' failure to timely comply with this order by obtaining substitute counsel may
11 result in the imposition of sanctions which may include a recommendation to the
12 district judge that plaintiffs' complaint be dismissed for failure to prosecute. *See* Fed.
13 R. Civ. P. 41(b).
- 14 4. The clerk of the court shall serve the plaintiffs with a copy of this order at their last
15 known address:
- 16 Robert J. Gardner, Co-Special Administrator
17 Kim Gardner, Co-Special Administrator
18 Estate of Garrett E. Gardner
27231 Calle Del Cid
Mission Viejo, CA 92691
- 19 5. The Motion to Stay (ECF No. 16) is **GRANTED** to the extent that it is stayed for 30
20 days.

21 DATED this 25th day of August, 2017.

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23 PEGGY A. LEEN
24 UNITED STATES MAGISTRATE JUDGE
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